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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

In re: MICHAEL E MCLITUS LISSA MCLITUS Debtors.	Case No. 12-13564-LA13 TRUSTEE'S OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN AND MOTION TO DISMISS PURSUANT TO 11 U.S.C.1307(C)(5) DATE: May 8, 2013 TIME: 10:00 AM DEPT: 2

DAVID L. SKELTON, Chapter 13 Standing Trustee ("Trustee"), hereby objects to confirmation and moves the Court for an Order of Dismissal and Denial of Confirmation. The bases for the Trustee's objection(s) are:

I. 11 USC § 1322(d)(1)(C)

A. The Plan provides for payments over a period exceeding five years (or exceeding 3 years without cause). See §1322(d) *et. seq.*

1. **Plan length is approximately 91 months.**
2. **Increase payment to $767/month.**

II. 11 USC § 1322 (a)(2)

A. The Plan does not provide for full payment of all priority claims. See §1322(a)(2).

1. **2010 & 2011 tax returns are unfiled.**

III. 11 USC § 1325(a)(6)

A. The debtors have no ability to make the payments proposed by the Plan. See §1325(a)(6). The debtors have no regular income. See §109(e).

1. Schedule J is negative $2,534/month.

2. Trustee requires current pay stub – income is anticipated (See Schedule I #17).

3. Debtor is 3 payments in arrears ($1,476).

4. Need tax returns.

IV. 11 USC § 1322 *et. seq.*

A. The Plan is incomprehensible or internally inconsistent and the Trustee cannot administer it in its current format.

1. Paragraph 9 of plan has installment payment to step up "upon final payment to secured creditor in Paragraph 5". This is not administrable. Modify paragraph to provide certain date. Trustee would have to review every month to see if final payment was made otherwise.

V. 11 USC § 1325(a)(3)

A. The Plan is not proposed in good faith or does not comply with Code provisions. See §1325 (a)(3); *In re Leavitt*, 171 F.3d 1219, 1222-23 (9th Cir. 1993); *In re Lanning*, 403 B.R.47 (Bankr. N.D. CA 2009); *In re Padilla*, 213 B.R. 349, 352 (9th Cir. BAP 1997).

1. See above.

2. Amended Schedule F is missing one full page of creditors which were on original Schedule.

WHEREFORE, the Trustee respectfully requests that confirmation of Debtors' plan be denied and the case be dismissed.

Date: March 28, 2013

/s/ Rebecca E. Pennington
Attorney for Chapter 13 Trustee